REMARKS

The Office Action, mailed July 31, 2008, considered and rejected claims 1-10, 12-18, and 20-38. Claims 1-10, 12-16, 18, 20-32, 34, 36 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Meunier* (U.S. Patent No. 7,129,891). Claim 38 was rejected under 35 U.S.C. § 102(e) as being anticipated by *Sagefalk* (U.S. Publ. No. 2003/0220116) Claims 17, 33-35, and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Meunier* in view of *Dacosta* (U.S. Patent No. 6,978,023).[1]

By this paper, claims 1, 24 and 38 are amended, claim 36 is cancelled, and claim 39 is added. Accordingly, following this paper, claims 1-10, 12-18, 20-35 and 37-39 are pending, of which claims 1, 23, 24 and 38 are the only independent claims at issue.

As reflected above, the pending claims generally relate to detecting clients that are near each other, and notifying the mobile clients of the proximity of other mobile users. As reflected in claim 1, for example a method includes obtaining signal strength data from multiple client stations with respect to signals received by the mobile station from a stationary base station. The signal strength data of the first client is compared with the signal strength data of the other client stations. Then, remote from the client stations, a determination is made that the first client station is proximate the one or more other client stations based on the signal strength data of the first client station and the other client stations. Thereafter, data is sent to the first client to identify the one or more other client stations determined to be nearby. Claim 23 recites a computer program product capable of being executed to perform a similar method. Claim 24 recites a system that includes a client device capable of receiving and providing information used in a method similar to that of claim 1. Claim 38 also recites a similar method in which the comparing and determining of the proximity of multiple other remote client devices is performed at a base station, and the proximity information also includes a notice of an identity of the user of the second mobile client device.

Applicant respectfully notes that while the cited art generally relates to proximity of devices and wireless telephone technologies, they fail, whether cited alone or in combination, to disclose or reasonably support the invention as recited in the pending claims. For example, among other things, the cited art fails to disclose, reasonably support, or enable a remote party to obtain signal strength information from multiple clients, determine the proximity of the multiple clients, and then provide to one or more of the devices information about which other clients are nearby, as recited in combination with the other claim elements.

---

[1] Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

For example, the primary reference, *Meunier*, generally discloses a system in which proximity of devices in a wireless network is determined. Specifically, two or more devices in the wireless network determine how close they are to each other by connecting in a peer-to-peer manner. When connected to each other, they can exchange information about the network characteristics they observe. More particularly, a first device can gather information that it observes (e.g., signal strength, noise level), and receive similar network characteristic information from a second client device on the network that also observes similar information. The first client device can then pass that information to the second client device, where the second client device compares the information of the first device against its own information. When similar signal strength or noise data is observed by both devices, the comparison can yield an indication that the two client devices are in proximity.

Notably, while *Meunier* thus discloses a system in which client devices interact in a peer-to-peer manner and share their data to thereafter determine when they are close to each other, the reference specifically discloses a system which operates only if the two devices first know about each other and can exchange signals back and forth. More particularly, inasmuch as *Meunier* relies on a peer-to-peer data exchange, the devices must first know about each other to a level sufficient to allow the peer communication to occur. In contrast, the pending claims recite that information about the client devices is obtained and compared remote from the clients. In this manner, the claims allow a system in which clients need not know of each other beforehand, as the remote server, base station, or other network entity can compare the data and then tell the clients what other clients are nearby for later communication, if desired.

With regard to Claim 38, Applicant further submits that *Sagefalk* also fails to render the pending claims unpatentable. As is axiomatic, for a rejection under 35 U.S.C. § 102, the cited art must not only disclose each and every element of the pending claims, but it must also describe each element in at least as much detail as that contained in the claims, and with the same organization in the claims. As previously submitted, Applicant respectfully submits that *Sagefalk* is clearly deficient in this regard.

For example, *Sagefalk* describes a system in which mobile devices receive information from various base stations indicating what segments of the wireless system each base station covers for provision of services. The mobile device then uses this information to calculate its position relative to those base stations. Notably, however, the pending claims, including claim 38, relate to positions of client devices relative to each other, and not the position of a client device relative to a base station. The only identity disclosed in *Sagefalk* is the identity of a base station. For example, the portion cited by the office includes paragraphs 25 and 26, and Figure 8E of *Sagefalk*. These portions disclose:

> [0024] transmitting an identity from corresponding ones of the plurality of base stations within a transmission range of the portable device to the portable device;
>
> [0025] transmitting a list from one of the plurality of base stations to the portable device, and the list comprising information about which of the plurality of base stations cover specific position segments in the wireless communication network formed by the plurality of base stations; and
>
> [0026] determining within the portable device, a position of the portable device from the information in the list and the transmitted identity.

Figure 8E further discloses a method that includes:

- Starting the client;
- During an inquiry phase, identifying base station(s) delivering positioning serve and get, at the client side, received signal strengths and IDs for the base stations;
- Enter a connection phase with an identified base station and get signal strength tables from the base station and, at the base station side, get received signal strengths of the client at the base station;
- Build a signal strength table;
- Correlate actual signal strength received at the client or base station to determine a set of locations of the client w/r/t each identified base station;
- Correlate the client locations from all base stations to determine a set of possible locations;
- Exclude locations from the set of possible locations which include locations where the client should be receiving signals from other base stations, but is not;
- Correlate the last location with the updated list to determine a final candidate location or locations; and
- Present the position to the client.

Notably, even the portions relied upon expressly by the Office relate solely to determining the position of a client relative to a base station. Nothing in *Sagefalk*, let alone the cited portion thereof, includes the determination that first and second mobile clients are proximate each other, let alone that an identity of a user of a mobile client is presented to the other mobile client. Indeed, the only identity included in any of the disclosure of *Sagefalk* is the identity or ID of a base station. To the extent the Office determines otherwise, an express consideration of where the locations of two mobile devices are being compared to each other as well as an identity of a user of a mobile station are disclosed is requested.[2]

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 29th day of December, 2008.

Respectfully submitted,

RICK D. NYDEGGER
Registration No. 28,651
COLBY C. NUTTALL
Registration No. 58,146
Attorneys for Applicant
Customer No. 047973

RDN:CCN:gd
2220692_1.DOC

---

[2] The current Office Action merely concludes, that the prior arguments are unpersuasive, but makes no attempt at providing any further rationale from that support, other than citation of the elements relating to identity of a base station.